S.B. CIVIL WRIT PETITION NO.3748/2006

Kewal Singh.

vs.

State of Rajasthan and others.

Date : 24.10.2007

HON'BLE MR. PRAKASH TATIA, J.

Mr.RK Thanvi, for the petitioner.

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Heard learned counsel for the petitioner.

The petitioner's injunction application was dismissed by the trial court vide order dated 23.4.2005 and the appeal against the said order was dismissed by the appellate court vide order dated 27.3.2006.

Hence, this writ petition.

Learned counsel for the petitioner submitted that the petitioner entered into an agreement with one Angrej Singh and took possession of the property after paying consideration of Rs.9,95,000/-. The respondent State has attached the property of Angrej Singh which is in possession of the petitioner because of the reason

that said Angrej Singh was declared absconder by the court and in pursuance of the proceedings under Sections 82 and 86 of the Cr.P.C., the respondent State wants to take the land in question.

It is submitted that even if the respondent State can attach the property, then also, it cannot dispossess the petitioner from the land in question. It is also submitted that the purchaser has right to take possession if law permits but when the petitioner is in possession after paying consideration, he cannot be dispossessed.

I considered the submissions of learned counsel for the petitioner and perused the reasons given by the two courts below.

The two court below did not found the agreement itself reliable because the petitioner/ plaintiff's case was that the agreement was executed on 13.6.1999 whereas the agreement which was produced before the court below was dated 3.7.2000. The court below also observed that in the agreement, it has been mentioned that the possession has been handed over to the petitioner and as per the amended provisions of the Registration Act, such agreement requires

registration. Be that as it may be, after going through the facts of the case, I do not find any material irregularity or illegality in the impugned orders passed by the courts below.

In view of the above, this writ petition having no force, is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya